

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS, State Bar No. 171168
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2557
Facsimile: (213) 897-2804
6
7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-177

13 MELISSA ANN ROBERTS AKA MELISSA
ANN KRUSE
14 12948 Laurel Oak Road
Victorville, CA 92392
Registered Nurse License No. 526036

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.
- 22 2. On or about September 3, 1996, the Board of Registered Nursing (Board)
23 issued Registered Nurse License Number 526036 to Melissa Ann Roberts aka Melissa Ann
24 Kruse (Respondent). The Registered Nurse License was in full force and effect at all times
25 relevant to the charges brought herein and will expire on December 31, 2007, unless renewed.
- 26
27
28

1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 125.3 of the Code provides, in relevant part, that the Board may
7 request the administrative law judge to direct a licentiate found to have committed a violation or
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
9 and enforcement of the case.

10 5. Section 490 of the Code states:

11 A board may suspend or revoke a license on the ground that the licensee
12 has been convicted of a crime, if the crime is substantially related to the
13 qualifications, functions, or duties of the business or profession for which the
14 license was issued. A conviction within the meaning of this section means a plea
15 or verdict of guilty or a conviction following a plea of nolo contendere. Any
16 action which a board is permitted to take following the establishment of a
conviction may be taken when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal, or when an order granting probation is
made suspending the imposition of sentence, irrespective of a subsequent order
under the provisions of Section 1203.4 of the Penal Code.

17 6. Section 2750 of the Business and Professions Code (Code) provides, in
18 relevant part, that the Board may discipline any licensee, including a licensee holding a
19 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
20 2750) of the Nursing Practice Act.

21 7. Section 2761 of the Code states:

22 The board may take disciplinary action against a certified or licensed nurse
23 or deny an application for a certificate or license for any of the following:

24 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

25

26 (f) Conviction of a felony or of any offense substantially related to the
27 qualifications, functions, and duties of a registered nurse, in which event the record of the
conviction shall be conclusive evidence thereof.

8. Section 2762, subsection (b) of the Code provides, in relevant part, that the use of alcoholic beverages in a manner dangerous to oneself or others, constitutes unprofessional conduct.

9. Section 2764 of the Code provides, in relevant part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

• • • •

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

11. Respondent is subject to disciplinary action under Code sections 490 and 2761, subsection (f), and California Code of Regulations, title 16, section 1444, subsection (a), as a result of Respondent's conviction of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. Following a plea of guilty, Respondent was convicted of violating Penal Code section 273.5, subsection (a) (wilful infliction of corporal injury on a spouse) on January 5, 2006. Respondent was fined and sentenced to six days in jail. Respondent was also ordered to complete 52 weeks of domestic violence treatment classes.

1 12. The underlying factual circumstances are that Respondent assaulted her
2 husband on Thanksgiving Day, November 24, 2005, while under the influence of alcohol.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct)**

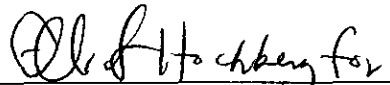
5 13. Respondent is subject to disciplinary action under Code section 2761,
6 subsection (a), and section 2762, subsection (b), in that Respondent engaged in unprofessional
7 conduct by using alcohol in a manner dangerous to herself and others, as detailed in
8 paragraph 12, above.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein
11 alleged, and that following the hearing, the Board issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number 526036, issued
13 to Respondent;
- 14 2. Ordering Melissa Ann Roberts to pay the Board of Registered Nursing the
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
16 Professions Code section 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.
- 18

19 DATED: 12/5/07

21
22 
23 RUTH ANN TERRY, M.P.H., R.N.
24 Executive Officer
25 Board of Registered Nursing
26 Department of Consumer Affairs
27 State of California
28 Complainant

LA2007600740
60254181.wpd